

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * *

In the Matter of the Application)
of Montana-Dakota Utilities Co.)
for Authority to Implement the)
Gas Cost Tracking Adjustment)
Procedure.)
_____)

UTILITY DIVISION
DOCKET NO. 81.4.45
INTERIM ORDER NO. 4802

INTERIM RATE ORDER

Findings of Fact

1. On April 27, 1981, the Montana-Dakota Utilities Co. (Company or MDU) filed with the Montana Public Service Commission (Commission) an Application for Authority to Implement the Gas Cost Tracking Procedure. The Application contemplates a total increase in the tracking adjustment for industrial customers of 199.285 cents per Mcf and 192.559 cents per Mcf for residential and commercial customers, resulting in a total annual revenue effect of \$14.1 million.

2. In response to the Application the Commission tentatively scheduled May 28, 1981, as the proposed hearing date in this matter.

3. On May 4, prior to a formal Notice of Public Hearing, the Montana Consumer Counsel filed with the Commission a request for continuance of the hearing. The request for continuance stated (1) that Mr. George F. Hess had been retained to provide testimony in the tracking cases, (2) that it was the intent of the Consumer Counsel to seek discovery through data request of the Applicant, (3) that the May 28 date would not allow adequate time to serve, receive and analyze the data request, and (4) that it may be advantageous to

schedule the tracking hearing near the time currently set for MDU's electric operations case, i.e., July 14.

4. On May 6, 1981, the Company filed it's response to the Consumer Counsel's request for continuance of the hearing, and an Application for Interim Rate Relief. In the response the Company noted that the tariff governing the tracking procedure provided for "... a hearing date within 30 days from the date the application is filed by Seller with the Commission." The Company continued to argue that the governing tariff is designed to provide a speedy recovery of gas costs; that recovery must be speedy to ameliorate to as great an extent as possible a precipitous price change to the ratepayer; that the unreflected gas cost account, having a January 1 balance of approximately \$9.4 million, had become excessively burdensome to the Company; that delay would deprive the Company of due process and be confiscatory; and that the only means by which the Company could acquiesce to the request of the Consumer Counsel would be through immediate interim relief. The Company's Application for Interim Rate Relief proposed an interim adjustment of 78.436 ¢ per Mcf to be effective June 1, 1981 and to continue until such time as a final order can be issued in this proceeding.

5. The Commission remains dedicated to establishing an expeditious tracking procedure. However, in the instant case the Commission also finds that a comprehensive hearing, to include the testimony of the Consumer Counsel's expert witness, Mr. Hess, is required. This requirement is predicated on the recent inception of the Company's relationship

with the Frontier Gas Storage Company. The way in which this relationship affects the tracking procedure should be made clearly apparent. Therefore, the Commission finds it appropriate to grant the Consumer Counsel's request for continuance and reschedule the hearing for a later date. The hearing date has been tentatively rescheduled to July 17, 1981.

6. The Commission further recognizes that postponement of the hearing date in the absence of some form of interim relief does not comport with the notion of expedition in the recovery of gas costs. Therefore, the Commission also finds the Company's request for interim relief appropriate.

7. The logical place to look for the amount to which the Company is most reasonably entitled on an interim basis is in the past decisions regarding tracking cases. Those decisions have generally found the amortization of the amount in the unreflected gas cost account over a future six months' sales to be acceptable, while at the same time have found the current gas cost adjustment to be unacceptable. In other words, past decisions have found the unreflected gas cost adjustment not to be a controversial issue while the current gas cost adjustment consistently has been a controversial issue. Based on past criteria, and in accordance with the tariffs governing the tracking procedure, the unreflected gas cost adjustment as filed for in the current case is 115.630 ¢. In the absence of evidence that would indicate the unreflected gas cost adjustment becoming a controversial issue this value may be viewed as a reasonable benchmark from which to begin deliberations regarding the appropriate amount of interim relief. On

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~~this basis the Commission finds the Company's stipulation to interim relief in the amount of 78.436 ¢ to be within the bounds of reasonableness.~~

5. The granting of interim relief in this matter should in no way be misinterpreted to mean that any issue in the case has been decided before all the evidence has been presented and heard during the course of these proceedings. Should for any reason the amount of the interim granted herein be found to be excessive as regards a final decision in this case, the Company will be required to refund any excess, to include interest at the rate of ^{equity return} ten percent, to the ratepayer.

CONCLUSIONS OF LAW

1. Applicant, Montana-Dakota Utilities Company, is a corporation providing service within the state of Montana and as such is a "public utility" within the meaning of Section 69-3-101, MCA.

2. The Montana Public Service Commission properly exercises jurisdiction over the Applicant's Montana operations pursuant to Title 69, Chapter 3, MCA.

3. Section 69-3-304, MCA, provides, in part, "The Commission may, in its discretion, temporarily approve increases pending a hearing or final decision."

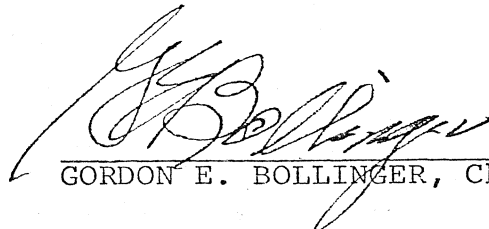
4. The rate levels and spread approved herein are a reasonable means of providing interim relief to MDU. The rebate provisions of Section 69-3-304, MCA, protect ratepayers in the event that any revenue increases authorized by this Order are found to be unjustified in the final order in this Docket.

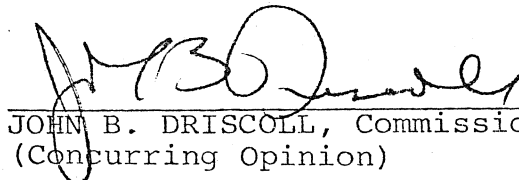
Order

1. Applicant, Montana-Dakota Utilities Company is hereby granted interim relief in the amount of 78.436 ¢ per Mcf of natural gas.
2. Such relief is to become effective June 1, 1981, and remain in effect until such time as a final decision is reached in this matter.
3. All such relief is to be applied to the unreflected gas cost account portion of the tracking procedure.
4. Interim revenues granted herein are subject to rebate should the final order in this docket determine that less increase is warranted. Such a rebate would include interest at 10 percent per annum.

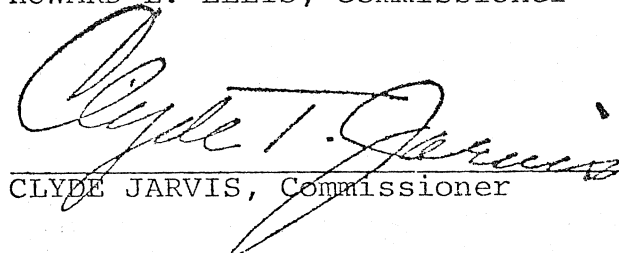
DONE IN OPEN SESSION THIS 18th day of May, 1981 by a vote of
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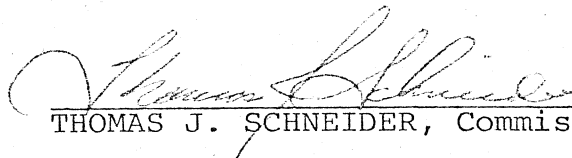
BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.


GORDON E. BOLLINGER, Chairman

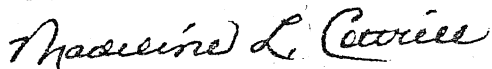

JOHN B. DRISCOLL, Commissioner
(Concurring Opinion)


HOWARD L. ELLIS, Commissioner


CLYDE JARVIS, Commissioner


THOMAS J. SCHNEIDER, Commissioner

ATTEST:


Madeline L. Cottrill
Commission Secretary

(SEAL)

NOTE: You may be entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA: and Commission Rules of Practice and Procedure, esp. 38.2.4806 ARM.

CONCURRING OPINION
INTERIM ORDER
DOCKET 84.4.45

By: John B. Driscoll, Commissioner

I agree with the approval of this interim order in all respects save one: The 10% interest rate stipulated to for refund of possible overcharges is not high enough. The stipulated rate reflects neither the consumer's or the utility's cost of money in today's market. Very likely the interest rate will be less than the rate of inflation faced by the consumer. If and when the money is returned to the rate payer, its present value will be considerably less than if it had been spent outright on the day it was paid to the utility as a result of this interim order.

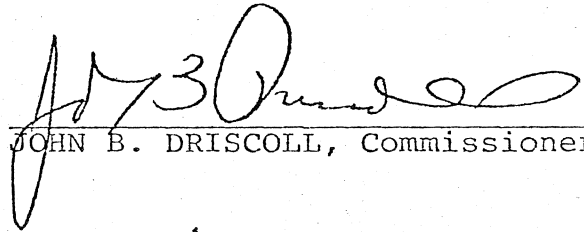
If the Legislature's mandate of 10% for general rate increase refunds is applicable, then why the need for a stipulation between the utility and the Commission? Clearly, there is an opportunity to stipulate at a more realistic interest rate, and we should make an effort to reflect the true value of money to both the ratepayer and the utility.

There are a number of alternatives for arriving at a fairer interest rate. The best would seem to be an interest rate equal to the cost of equity found for the utility in the last rate case. If interim rate orders such as this are not approved then the substitute source of money is the utility equity holders. The equity interest rate should therefore be a satisfactory cost

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to the utility for temporarily using a little too much rate-payer money.

Finally, use of the equity cost determined in the last general rate case avoids having the Commission prejudge the facts of the pending general rate case, while expeditiously awarding an interim increase.



JOHN B. DRISCOLL, Commissioner